

TENNESSEE REAL ESTATE COMMISSION MINUTES
May 1-2, 2008

The Tennessee Real Estate Commission convened on May 1, 2008, at 10:50 a.m. at the Shelby County Office Building, 157 Poplar, Memphis, TN 38109. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, Commissioner Gary Cunningham, and Commissioner Isaac Northern. Commissioner David Flitcroft was absent. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda (**Exhibit 1**) for the May 2008 Commission meeting. Chairman Haynes removed the applicant conference for Marcus Ellis and replaced it with a licensee conference for Deborah Hall. **Commissioner Alexander made a motion to adopt the amended agenda; seconded by Commissioner Tate; unanimous vote; motion carried.**

The next order of business was the approval of the minutes from the April 2008 meeting (**Exhibit 2**). **Vice-Chairman Stephenson made a motion to approve the April 2008 minutes; seconded by Commissioner Northern; unanimous vote; motion carried.**

INFORMAL APPLICANT CONFERENCES

Yvette Fields, applicant, appeared before the Commission with her Principal Broker Elmer Flowers, to seek approval for an affiliate broker license. **Vice-Chairman Stephenson made a motion to approve; seconded by Commissioner Cunningham; unanimous vote; motion carried.**

LICENSEE/APPLICANT REQUESTS

Deborah Hall, expired licensee, appeared before the Commission to request permission to retest and reapply for her Broker license. **Commissioner Collins made a motion to deny Ms. Hall's request to sit for the Broker examination; seconded by Commissioner Alexander; opened to discussion; vote: 8 yes, 0 no; motion carried. Commissioner Collins made a motion to allow Ms. Hall to sit for the Affiliate Broker examination; seconded by Commissioner Northern; opened to discussion; vote: 7 yes, 1 no; motion carried.**

EDUCATION REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented Courses for Commission Evaluation and Courses Requiring Discussion (**Exhibit 3**). **Vice-Chairman Stephenson made a motion to defer the Courses Requiring Discussion, "The DNA of a Sales Agent" and "What Every Realtor Should Know About the Home Inspection Process (CR)"; seconded by Commissioner Joh; opened to discussion; Vice-Chairman Stephenson and Commissioner Joh amended their motion and second to also include deferring the Courses "Risk Reduction Using the Transaction Desk", "Transaction Desk – Basic Training", "Advanced Training – Improving Customer Service by Using**

Transaction Desk” , “Train the Trainer – Improving Customer Service by Using the Transaction Desk”; unanimous vote; motion as amended carried. Commissioner Joh made a motion to approve all other Courses Presented for Commission Evaluation excluding the four “Transaction Desk” courses previously deferred; seconded by Commission Tate; unanimous vote; motion carried.

Ms. Maxwell presented the Commission a report **(Exhibit 4)** with pass/fail rates for real estate education providers for 01/01/2008 to 03/31/2008.

EXECUTIVE DIRECTOR’S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 5)** – TREC has a total of **453** open complaints. Two of the 453 open complaints were staff generated Agreed Citations and 21 are complaints against Principal Brokers pursuant to Policy # 07-002 [Errors & Omissions Insurance]. There are 12 new complaints since the April meeting. There are 435 complaints in the legal department and 18 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2007-2008 is 238. Total Civil Penalties paid in March were \$18,533.00.
- **Licensing Statistics** – Ms. Maxwell presented statistics **(Exhibit 6)** to the Commission on real estate licenses approved in 2008, renewal payment by type (percentage/month), daily totals on new applications and TREC 1 forms, and number of licensees as of April 25, 2008.
- **Discussion of ARELLO conference** – Ms. Maxwell inquired as to who is interested in attending the upcoming ARELLO District Conference. Ms. Maxwell reported on the ARELLO Mid-Year Conference that she recently attended.

Chairman Haynes recessed the meeting for lunch at 12:03 p.m. The meeting reconvened at 1:55 p.m.

The Commission, Ms. Maxwell, and Ms. Wiseman discussed potential changes to the E&O RFP (Request for Proposal).

Commissioner Collins made a motion to increase the cost of the “appraiser rider” to \$130.00; seconded by Commissioner Joh; opened to discussion; unanimous vote; motion carried.

Vice-Chairman Stephenson made a motion to leave the deductible at \$1000.00; seconded by Commissioner Northern; unanimous vote; motion carried.

Commissioner Alexander made a motion to bid the E&O RFP for a two year period; seconded by Commissioner Cunningham; unanimous vote; motion carried.

Commissioner Alexander made a motion to have the chosen insurance provider supply TREC with a list of delinquent policyholders each month; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.

Vice-Chairman Stephenson made a motion to have the chosen insurance provider supply a quarterly report of the nature of the claims made; seconded by Commissioner Joh; unanimous vote; motion carried.

Chairman Haynes recessed the meeting, Thursday, May 1, 2008 at 4:05 p.m.

TENNESSEE REAL ESTATE COMMISSION
Thursday, April 3, 2008

The Tennessee Real Estate Commission reconvened on April 3, 2008 at 9:23 a.m. at the Shelby County Office Building, 157 Poplar, Memphis, TN 38109. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Grover Collins, Commissioner Wendell Alexander, Commissioner Gary Cunningham, and Commissioner Isaac Northern. Commissioner David Flitcroft and Commissioner Carol Tate were absent. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, and Kelly McDermott, Administrative Secretary.**

Legal Report, Kathryn Wiseman, Staff Attorney (Exhibit 7)

1. **2006042371 – Commissioner Cunningham had previously reviewed the case. The complaint was heard by the Commission at the August 2007 meeting and a civil penalty of \$1000.00 was assessed at that time. After further review, Commissioner Cunningham made a recommendation to reduce the civil penalty from \$1000.00 to \$250.00 or less. Commissioner Alexander made a motion to reduce the civil penalty from \$1000.00 to no fine at all; seconded by Commissioner Northern; vote: 5 yes, 1 no, Commissioner Cunningham abstained; motion carried.**
2. **2007054101 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
3. **2007057571 – Commissioner Collins made a motion to check and see if the respondent is licensed in any other state and flag the file for reapplication; seconded by Commissioner Joh; unanimous vote; motion carried.**
4. **2006046341 – Commissioner Collins made a motion to affirm the decision reached at the June 2006 meeting to issue a Consent Order with Civil Penalty of \$1000.00; seconded by Commissioner Alexander; unanimous vote; motion carried.**

5. 2006044771 &
6. 2006044772 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
7. 2007052511 – Commissioner Tate had previously reviewed the complaint. Commissioner Alexander made a motion to defer the complaint since Commissioner Tate was absent from the meeting; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.
8. 2006038841 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; unanimous vote; motion carried.
9. 2006019891 – Commissioner Collins made a motion to accept legal counsel's recommendation to issue a Consent Order with a civil penalty of \$500.00; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.
10. 2007051571 – Commissioner Alexander made a motion to accept legal counsel's recommendation to issue a Consent Order with a Civil Penalty of 1 % of Sales Prior to Licensure (\$2084.70); seconded by Commissioner Joh; unanimous vote; motion carried.
11. 2007061711 &
12. 2007061761 – Commissioner Collins made a motion to accept counsel's recommendation to dismiss; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.
13. 2007050761 – Vice-Chairman Stephenson made a motion to defer so Chairman Haynes may review the complaint; seconded by Commissioner Northern; unanimous vote; motion carried.
14. 2007054471 &
15. 2007054472 – Commissioner Joh made a motion to dismiss; seconded by Collins; unanimous vote; motion carried.
16. 2007060781 – Commissioner Northern made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.

Ms. Wiseman advised she has filed charges for 10 formal hearings for the June 2008 meeting. She further wished to confirm that revocation is an acceptable settlement prior to a formal hearing. **Commissioner Collins made a motion that revocation be an acceptable settlement in lieu of a formal hearing; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**

Ms. Wiseman read to the Commission a memorandum (**Exhibit 8**) from Ms. Mary Moody, Deputy Commissioner of the Department of Commerce & Insurance regarding the processing and handling of anonymous complaints. Ms. Moody's memo stated that the Division of Regulatory Board's Standard Operating Procedure reads "Anonymous complaints should be discouraged and shall be reviewed on a case-by-case basis by the program director and attorney to determine what, if any, action they merit." Any substantive complaint will be pursued.

The Commission and Ms. Wiseman reviewed and discussed the Legal Review Report and the Consent Order Log.

J.A. Bucy, Director of Governmental Affairs for the Tennessee Association of Realtors addressed the Commission regarding changes in licensee education. TAR has proposed the following changes to licensee education:

- Core Course requirements be extended from 4 to 6 hours (of the 16 hours of mandatory Continuing Education), and that this 6-hour course be permanently devoted to Contracts and TN Agency Law instruction.
- Only live, classroom courses be approved for pre-licensing education.
- Instructors teaching a TREC-approved pre-licensing course, Core Course, or Continuing Education course in Contracts and/or Agency Law successfully complete an approved and tested 8-hour Instructor Certification Course to demonstrate their competency in these two subject areas, at least every two years.

Vice-Chairman Stephenson made a motion to defer any further discussion of the above suggestions; seconded by Commissioner Cunningham; unanimous vote; motion carried.

COMMISSIONER REPORTS

Commissioner Collins, Commissioner Alexander, Commissioner Northern, Commissioner Cunningham, Vice-Chairman Stephenson, & Chairman Haynes reported on issues of concern to them and the Commission.

Commissioner Collins made a motion to include an article in the TREC newsletter highlighting the speech made by Mr. Jules Wade, Executive Vice-President of MAAR at the West Tennessee longevity award breakfast; seconded by Commissioner Northern; unanimous vote; motion carried.

The Commission, Ms. Maxwell and Ms. Wiseman readdressed the E&O RFP.

Vice-Chairman Stephenson made a motion to bid the E&O RFP for a two year period with a two year option to renew the contract at the existing rate; seconded by Commissioner Collins; unanimous vote; motion carried.

Comments from Attendees

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned the meeting Friday, May 2, 2008 at 11:45 a.m.